

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No. 0764MH-40404A

In re Application of:

**CARL BROCK BRANDENBERG, ET AL.**

Serial No.: 09/944,482

Filed: 31 AUGUST 2001

For: **LOCATION-AWARE WIRELESS  
COMMUNICATION APPLIANCE AND  
NETWORK**

Examiner: **TRAN, MYLINH T.**

Art Unit: **2179**

Confirmation No.: **2351**

**RENEWED PETITION UNDER 37 C.F.R. § 1.137(b)**

**Filed via EFS-Web**

Commissioner for Patents

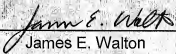
P.O. Box 1450

Alexandria, Virginia 22313-1450

Sir:

This Renewed Petition Under 37 C.F.R. § 1.137(b) is being filed in response to the Decision on Petition mailed 29 July 2010.

Please consider the following remarks and evidence.

<b>CERTIFICATE OF TRANSMISSION UNDER 37 C.F.R. § 1.8(a)(1)(i)(C)</b>	
Date of Transmission:	<u>9/29/10</u>
I hereby certify that this correspondence is being transmitted to the U.S. Patent and Trademark Office (USPTO) via the USPTO electronic filing system (EFS-Web) on the date shown above.	
By:	<u></u> James E. Walton

**REMARKS:**

The Decision states that the Petition lacks a statement the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional. The Decision further states that the delay has not been shown to the satisfaction of the Director to be unintentional for the periods:

- (1) the delay in reply that that originally resulted in the abandonment; and
- (2) the delay in filing an initial petition pursuant to 37 C.F.R. § 1.137(b) to revive the application.

**Statement of facts:**

The following is a chronology of the facts and circumstances surrounding the abandonment and the filing of the Petition to Revive in the subject application:

1. The subject application was filed on 31 August 2001 on behalf of the Applicants by Mr. Walton, the undersigned attorney. **The Declarations executed by the Applicants name Mr. Melvin A. Hunn, Mr. Kenneth C. Hill, and Mr. James E. Walton as the attorneys of Record.**
2. At the time of filing, Mr. Walton was employed as an associate by the law firm of Hill & Hunn, LLP. The partner at Hill & Hunn, LLP who was responsible for the Applicants was Mr. Hunn.
3. On 4 October 2001, a Filing Receipt and a Notice to File Corrected Application Papers were mailed to James E. Walton at Hill & Hunn, LLP. The Filing Receipt and a Notice to File Corrected Application Papers were received on 12 October 2001.

4. On 16 October 2001, Mr. Walton promptly mailed the Filing Receipt and the Response to Notice to File Corrected Application Papers to the Applicants. A copy of the letter is attached hereto.

5. On 15 November 2001, Mr. Walton promptly and timely filed a Response to Notice to File Corrected Application Papers. On 28 November 2001, Mr. Walton mailed a copy of the Response to Notice to File Corrected Application Papers to the Applicants. A copy of the letter is attached hereto.

6. On 30 January 2002, an Updated Filing Receipt was mailed to James E. Walton at Hill & Hunn, LLP. The Updated Filing Receipt was received on 8 February 2002.

7. On 11 February 2002, Mr. Walton mailed the Updated Filing Receipt to the Applicants. A copy of the letter is attached hereto.

8. **On 1 July 2003, Mr. Walton terminated his employment at Hill & Hunn, LLP and formed the Law Offices of James E. Walton, P.L.L.C. After 1 July 2003, Mr. Walton no longer had any right or authority to prosecute the subject application.**

9. **As of 1 July 2003, only Mr. Hunn and Mr. Hill were the attorneys of record in the subject application.**

10. Either Mr. Hunn or Mr. Hill should have promptly filed a Change of Address and a Revocation of Power of Attorney formally removing Mr. Walton as one of the Applicants' representatives; however, this was never done.

11. On 3 September 2004, **over three years from the filing date**, a first Office Action was mailed to James E. Walton at Hill & Hunn, LLP. The Office Action was received on 10 September 2004.

12. During 2004, Mr. Hunn became very ill with what was later determined to be leukemia. Mr. Hunn was unable to perform his duties at work from mid-2004 until July 2005, when he passed away from leukemia.

13. During 2004 and throughout Mr. Hunn's illness, Mr. Hill represented to Mr. Hunn's clients that Mr. Hill would be taking care of the prosecution of Mr. Hunn's clients' applications.

14. On 8 November 2004, the 3 September 2004 Office Action was sent to the Applicants, along with an unsigned Memorandum from Mr. Hunn to the Applicants. Had Mr. Hunn been well, this transmittal would have been in the form of a signed letter.

15. On 3 March 2005, a Response to the 3 September 2004 Office Action, along with a Three-Month Extension of Time, was filed by Mr. Hill.

16. On 27 April 2005, a Final Office Action was mailed, again, to James E. Walton at Hill & Hunn, LLP. The Final Office Action was received on 2 May 2005.

17. On 24 May 2005, the Final Office Action was mailed by Mr. Hill to the Applicants. A copy of the letter is attached hereto.

18. In early July 2005, Mr. Hunn passed away. **After Mr. Hunn passed away, only Mr. Hill was the attorney of record in the subject application.**

19. On 27 September 2005, Mr. Hill filed a Request for Continued Examination, along with a Response to the 27 April 2005 Final Office Action and a Two-Month Extension of Time.

20. On 14 October 2005, the Request for Continued Examination and the Response were mailed by Mr. Hill to the Applicants. A copy of the letter is attached hereto.

21. On 13 December 2005, an Office Action was mailed, again, to James E. Walton at Hill & Hunn, LLP. The Office Action was received on 19 December 2005.

22. On or about 23 December 2005, Mr. Hill moved his office from 201 Main Street, Suite 1440, Fort Worth, Texas 76102 to 6100 Southwest Boulevard, Suite 303, Fort Worth, Texas 76109. Mr. Hill must have delivered a Notice of Change of Address to the U.S. Postal Service, as some of the Office Actions mailed after 23 December 2005 were received by Mr. Hill.

23. On 6 January 2006, the Office Action was mailed by Mr. Hill to the Applicants. A copy of the letter is attached hereto. **It is important to note that the Serial Number and the Attorney Docket Number were incorrectly listed on the subject line of Mr. Hill's letter, as this caused confusion with the Applicants.**

24. On 10 June 2006, Applicant Kenneth Maxwell sent an email to Mr. Hill urging Mr. Hill to have a draft of the Response to the 13 December 2005 Office Action prepared in time for review by the Applicants. A copy of Mr. Maxwell's email is attached hereto.

25. On 13 June 2006, Mr. Hill filed a Response to the 6 January 2006 Office Action, along with a Three-Month Extension of Time. The 13 June 2006 Response filed by Mr. Hill failed to include important revisions added by the Applicants.

26. On 16 June 2006, the Response was emailed by Mr. Hill to the Applicants. The Applicants' disappointment with Mr. Hill was conveyed to Mr. Hill in an email from Applicant Robert Kay to Mr. Hill on 16 June 2006. A copy of Mr. Kay's email is attached hereto.

27. On 19 June 2006, the Response was mailed by Mr. Hill to the Applicants. A copy of the letter is attached hereto. **It is important to note that the Serial Number and the Attorney Docket Number were again incorrectly listed on the subject line of Mr. Hill's letter, as this caused confusion with the Applicants.**

28. On 21 September 2006, a Final Office Action was mailed, again, to James E. Walton at Hill & Hunn, LLP. The Final Office Action was received on 28 September 2006.

29. On 2 October 2006, the Final Office Action was mailed by Mr. Hill to the Applicants. A copy of the letter is attached hereto. **Again, it is important to note that the Serial Number and the Attorney Docket Number were incorrectly listed on the subject line of Mr. Hill's letter, as this caused confusion with the Applicants.**

30. The Applicants relied upon Mr. Hill to inform them of when Office Actions were issued, to remind them of when Responses were due, and to timely file all necessary Responses.

31. Mr. Hill made docket entries in his electronic docket system to respond to the Final Office Action by 21 December 2006, with a final response date of respond 21 March 2007. A copy of Mr. Hill's docket sheet dated 2 October 2006 is attached hereto. These docket entries were never changed or removed by Mr. Hill, which indicates that the Applicants never instructed Mr. Hill to allow the application to go abandoned.

32. After 2 October 2006, the Applicants copied Mr. Hill on numerous communications with respect to related applications and related lawsuits, but received no communications back from Mr. Hill.

33. The Applicants had filed several patent infringement lawsuits during this time frame on related patents, and had started to enter into settlement agreements with several of the defendants. Mr. Hill was aware of these lawsuits and was in communication with the Applicants' litigation counsel. This is evidence that the Applicants fully and clearly intended to keep the subject application alive and not to let it go abandoned.

34. As a result of the numerous communications that were sent by the Applicants to Mr. Hill, Mr. Hill was clearly aware that the Applicants did not intend to let the subject application go abandoned, and that the Applicants were relying on Mr. Hill to timely respond to all Office Actions and take the necessary steps to keep the subject application alive.

35. Mr. Hill failed to file a Response to the 21 September 2006 Final Office Action, although Mr. Hill knew that the Applicants desired to have a response filed and to keep the application alive. **As a result of Mr. Hill failing to file a response to the Final Office Action, the subject application went abandoned on 22 December 2006.**

36. **In addition, Mr. Hill allowed several other of Applicants' patent applications to go abandoned during this same time frame.**

37. Neither Mr. Hill nor the Applicants ever received a copy of the Notice of Abandonment (Mr. Walton is now in possession of Mr. Hill's original file). The Notice of Abandonment was returned to the U.S. Patent and Trademark Office undelivered, as evidenced by the file wrapper. It is likely that the Notice of Change of Address that Mr. Hill delivered to the U.S. Postal Service expired after one year, resulting in the Notice of Abandonment being return undelivered. Mr. Hill should have renewed his Notice of Change of Address with the U.S. Postal Service.

38. The Applicants did not discover that the subject application had gone abandoned until on or about 10 June 2009, when the Applicants met with Mr. Hill for a status conference to review the status of the several applications that Mr. Hill was handling for the Applicants. **Thus, the Applicants first became aware that the application had become abandoned on or about 10 June 2009.**

39. On 11 June 2009, Mr. Hill prepared a Memorandum to the Applicants setting forth action items for several of the Applicants' patent applications, many of which had been abandoned by Mr. Hill without the knowledge of the Applicants. A copy of Mr. Hill's 11 June 2009 Memorandum is attached hereto.

40. As set forth at Item (3) of Mr. Hill's 11 June 2009 Memorandum, Mr. Hill represented to the Applicants that Mr. Hill would file a Petition to Revive the subject application and accept the allowed claims. Mr. Hill indicated the filing fee for the Petition to Revive would be \$810.00. Attached hereto is a copy of Mr. Hill's handwritten notes indicating that he was going to file a Petition to Revive the subject application.

41. On or about 16 June 2009, the Applicants prepared a check to the USPTO in the amount of \$810.00 to cover the filing fee for the Petition to Revive the subject application, and delivered the check to Mr. Hill for filing with the USPTO. A copy of Mr. Kay's email to Mr. Hill, along with a copy of the check stub, is attached hereto.

**42. Mr. Hill never filed a Petition to Revive in the subject application, contrary to the Applicants' instructions and understanding.**

43. By February 2010, the Applicants were concerned that Mr. Hill had not filed the requisite Petition to Revive in the subject application and contacted Mr. Walton about taking over the prosecution of the subject application.

44. On or about 22 February 2010, Mr. Walton obtained the Applicants' files (**approximately one hundred files**) from Mr. Hill and promptly began investigating the status of the files and applications.

45. As a result of Mr. Walton's investigation, Mr. Walton was able to confirm that Mr. Hill had never filed a Petition to Revive in the subject application, even though he had represented to the Applicants that he would do so.

46. On 26 May 2010, Mr. Walton prepared and filed a Revocation of Power of Attorney and New Power of Attorney in the subject application.

47. On 7 June 2010, Mr. Walton filed the original Petition to Revive in the subject application.

48. The foregoing is evidence that Mr. Walton was not the counsel of record at the time the application went abandoned, and that Mr. Hill was the counsel of record.

49. Numerous phone calls and emails over several months have been sent to Mr. Hill, but Mr. Hill has not responded. As such, it has not been possible to obtain a statement from Mr. Hill with respect to the abandonment of the subject application.

### **Conclusions:**

The Applicants submit that the foregoing facts and evidence, along with the Statement of Applicants, support the following conclusions:

1. Mr. Hill was the sole attorney of record in the application at the time the application became abandoned.
2. The Applicants intended to respond to the Final Office Action mailed 21 September 2006, and instructed Mr. Hill to do so.



3. Mr. Hill failed to respond to the Final Office Action dated 21 September 2006.

4. Neither Mr. Hill nor the Applicants received the Notice of Abandonment.

5. The Applicants first became aware that the application was abandoned on or about 10 June 2009.

6. The Applicants paid for and thought that a Petition to Revive had been filed by Mr. Hill promptly after the discovery that the application had become abandoned.

7. Mr. Hill has not been cooperative with the Applicants since the application became abandoned.

8. The Applicants exercised due care and diligence throughout the timeframe before and after the application was abandoned, including through the time that the Petition to Revive was actually filed.

Therefore, pursuant to MPEP 711.03(c)(II), subsection D, the Applicants submit that:

(A) the Applicants first became aware of the abandonment of the application on or about 10 June 2009; and

(B) the foregoing statements of fact represent a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the Applicants.

Filed herewith is a Joint Statement of Applicants Carl Brock Brandenburg, Robert Kay, and Kenneth Maxwell in support of this Renewed Petition to Revive. Carl Brock Brandenburg, Robert Kay, and Kenneth Maxwell are responsible persons having first hand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

The foregoing documents are being filed via the U.S. Patent and Trademark Office's EFS-Web electronic filing system. No fees are deemed to be necessary; however, the undersigned hereby authorizes the Commissioner to charge any fees which may be required, or credit any overpayments, to **Deposit Account No. 502806**.

Respectfully submitted,

Date

9/29/10

James E. Walton

James E. Walton, Registration No. 47,245  
Law Offices of James E. Walton, P.L.L.C.  
1169 N. Burlesque Blvd., Suite 107-328  
Burleson, Texas 76028  
(817) 447-9955 (Voice)  
(817) 447-9954 (Facsimile)  
jim@waltonpllc.com (Email)

**CUSTOMER NO. 38441**

ATTORNEY FOR APPLICANTS



16 October 2001

Via First Class Mail

Mr. Brock Brandenburg  
STICK NETWORKS, INC.  
3800 Commerce  
Dallas, Texas 75226

Re: United States Patent Application No. 09/944,482  
**Method and Apparatus for Scheduling Presentation of Digital  
Content on a Personal Communication Device**  
Our File No. 0590MH-40404A

Dear Brock:

Enclosed is a copy of an Updated Filing Receipt for the above-referenced patent application.

Also enclosed is a Notice to File Corrected Application Papers stating that new drawings are required that conform to the USPTO's margin requirements. Please have Laura Smith contact me so that we can discuss her preparing a clean set of drawings. A response to the Notice is due on **4 December 2001**.

If you have any questions, please do not hesitate to contact us.

Very truly yours,

James E. Walton

JEW:mas  
Enclosure



28 November 2001

**Via First Class Mail**

Mr. Robert Kay  
4601 Boulder Run  
Fort Worth, Texas 76109-3217

Re: United States Patent Application No. 09/944,482  
**Method and Apparatus for Scheduling Presentation of Digital  
Content on a Personal Communication Device**  
Our File No. 0590MH-40404A

Dear Robert:

Enclosed is a copy of the Response to Notice to File Corrected Application Papers which we filed on 15 November 2001 with the U.S. Patent and Trademark Office for the above-referenced application. We had to file this Response because some of the drawings originally filed with the application did not have the proper margins. Due to their voluminous nature, I did not include the resubmitted drawings in your copy.

Also enclosed is the original Notice of Recordation of Assignment Document, along with the original Assignment executed by you, Brock, and Ken. You should keep these documents with the company's other valuable records. We should receive the Notice of Recordation and Brandon's original Assignment in the near future. We will forward them to you as soon as they are in hand.

If you have any questions, please do not hesitate to contact us.

Very truly yours,

James E. Walton

Enclosures



11 February 2002

**Via First Class Mail**

Mr. Robert Kay  
4601 Boulder Run  
Fort Worth, Texas 76109-3217

Re: United States Patent Application No. 09/944,482  
**Method and Apparatus for Scheduling Presentation of Digital  
Content on a Personal Communication Device**  
Our File No. 0590MH-40404A

Dear Robert:

Enclosed is a copy of the Updated Filing Receipt for the above-referenced application.

If you have any questions, please do not hesitate to contact us.

Very truly yours,

James E. Walton

Enclosure

# Memorandum

melhunn@hillandhunn.com  
sbradshaw@hillandhunn.com

To: Robert Kay, Brock Brandenburg, and Ken Maxwell  
From: Melvin A. Hunn  
Date: 11/08/2004  
Re: 0746MH-40404A Wireless Agents

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Enclosed herewith find a photocopy of an Office Action dated 3 September 2004. A single claim is pending in this application. I have enclosed for your consideration a copy of that claim. The Examiner has rejected the single claim as being anticipated by Gersham et al., USPN 6,199,099.

I would like to have your comments and observations regarding the applicability of the Gersham et al. reference to the single pending claim. In our response, we will add dependent claims and additional independent claims. However, we will be limited generally to the subject matter of Claim 1 and we should not stray too far from that subject matter.

Our response is due by 1 December 2004, without extension.

Hill and Hann LLP

201 Main Street, Suite 1440 • Fort Worth, Texas 76102 • Voice: 817.332.2113 • Fax: 817.332.2114



24 May 2005

*Via First Class Mail*

Mr. Robert Kay  
Wireless Agents, LLC  
4601 Boulder Run  
Fort Worth, Texas 76109-3217

Re: United States Patent Application  
**Method and Apparatus for Scheduling Presentation of  
Digital Content on a Personal Communication Device**  
Our File No. 0746MH-40404-A

Dear Robert:

Enclosed herewith please find a photocopy of an Office Action recently received from the Patent Office for the above identified patent application.

If you have any questions, please do not hesitate to call.

Very truly yours,

Kenneth C. Hill

KCH/er

Enclosure

Hill and Hunn LLP

201 Main Street, Suite 1440 • Fort Worth, Texas 76102 • Voice: 817.332.2113 • Fax: 817.332.2114



14 October 2005

*Via First Class Mail*

Mr. Robert Kay  
Wireless Agents, LLC  
4601 Boulder Run  
Fort Worth, Texas 76109-3217

Re: United States Patent Application  
Serial No. 09-944,482  
**Method and Apparatus for Scheduling Presentation of  
Digital Content on a Personal Communication Device**  
Our File No. 0746MH-40404-A

Dear Robert:

Enclosed herewith please find a photocopy of Response filed recently from the Patent Office for the above identified patent application.

If you have any questions, please do not hesitate to call.

Very truly yours,



Kenneth C. Hill

KCH/er

Enclosure



***Hill Law Firm***

Intellectual Property Attorneys  
6100 Southwest Blvd., Suite 303  
Fort Worth, Texas 76109

Ph:(817) 332-2113

Fax:(817) 332-2114

6 January 2006

*Via First Class Mail*

Mr. Robert Kay  
Wireless Agents, LLC  
4601 Boulder Run  
Fort Worth, Texas 76109-3217

Re: United States Patent Application  
Serial No. 10/240,642  
**METHOD AND APPARATUS FOR SCHEDULING  
PRESENTATION OF DIGITAL CONTENT ON A PERSONAL  
COMMUNICATION DEVICE**  
Our File No. 0746MH-40404-US2

Dear Robert:

Enclosed herewith, please find a photocopy of an Office Action recently received from the Patent Office for the above identified patent application. Please note that a Response is due by 13 March 2006. Please contact me before that time to discuss how to proceed.

I look forward to hearing from you.

Very truly yours,



Kenneth C. Hill

KCH/er  
Enclosure

**From:** Ken Maxwell <[krmaxwell@charter.net](mailto:krmaxwell@charter.net)>

**Date:** June 10, 2006 7:43:53 AM CDT

**To:** <[khill@hillpatentlaw.com](mailto:khill@hillpatentlaw.com)>

**Cc:** Robert Kay <[roverone@charter.net](mailto:roverone@charter.net)>

**Subject:** Re: Download link for files

Hi Ken,

This is a reminder that the deadline for filing the revised scheduler claims is Tuesday, and we need to have time to review and revise them before then. The work did this past week on the new pivot claims has illustrated the benefits of having time to review and revise.

Thanks,  
Ken

**NOTICE OF CONFIDENTIALITY:**

The information contained in and transmitted with this e-mail may be subject to the Attorney-Client and Attorney Work Product privileges, and is Confidential. It is intended only for the individuals or entities designated as recipients above. You are hereby notified that any dissemination, distribution, copying, use or reliance upon the information contained in and transmitted with this e-mail by or to anyone other than the addressee designated above by the sender is unauthorized and strictly prohibited. If you have received this e-mail in error, please notify the sender by reply immediately. Any e-mail erroneously transmitted to you should be immediately destroyed.

**From:** Robert Kay <roverone@mac.com>

**Date:** June 16, 2006 11:52:35 AM CDT

**To:** Ken Hill <khill@hillpatentlaw.com>

**Subject: Re: How did the explanation come out for the scheduler filing ?**

Coming in the mail - would you like an email

Oh, heck - here it is attached. I used some of ken's stuff, etc. also, refocused the claims some.

ken

Hi Ken:

Thanks for sending that on. Hopefully it will get the examiner to think about things in the right way finally.

We were wondering why you left off the "user" that we had added to the context in claims 6 and 10 ? I think we had changed it to:

Determining a current context of said user and said device, wherein said context has at least on dimension;

We put it in there because although the device and user might have the same time and space (for example), a context of the user might be "angry" or "happy" or "hungry" or something, which the device wouldn't share, but would still be very helpful in choosing what content to present.

Maybe there's something about it that we don't understand yet relative to the prior art or something. If it's the right thing to do, can it be amended ?

robert



6100 Southwest Blvd. Suite 303 • Fort Worth, Texas 76109

voice: (817) 332-2113 • fax: (817) 332-2114  
www.hillparentlaw.com

19 June 2006

*Via First Class Mail*

Mr. Robert Kay  
Wireless Agents, LLC  
4601 Boulder Run  
Fort Worth, Texas 76109-3217

Re: United States Patent Application  
Serial No. 10/240,642  
**METHOD AND APPARATUS FOR SCHEDULING  
PRESENTATION OF DIGITAL CONTENT ON A PERSONAL  
COMMUNICATION DEVICE**  
Our File No. 0746MH-40404-US2

Dear Robert:

Enclosed herewith, please find a photocopy of a Response to Office Action recently filed with the Patent Office for the above identified patent application.

If you have any questions, please don't hesitate to call.

Very truly yours,

Kenneth C. Hill

KCH/er  
Enclosure



HILL  
LAW FIRM

6100 Southwest Blvd. Suite 303 • Fort Worth, Texas 76109

voice: (817) 332-2113 • fax: (817) 332-2114  
www.hillpatentlaw.com

2 October 2006

*Via First Class Mail*

Mr. Robert Kay  
Wireless Agents, LLC  
4601 Boulder Run  
Fort Worth, Texas 76109-3217

**REMINDER**

DATE Jan. 22, 2007

Re: United States Patent Application  
Serial No. 10/240,642  
**METHOD AND APPARATUS FOR SCHEDULING  
PRESENTATION OF DIGITAL CONTENT ON A PERSONAL  
COMMUNICATION DEVICE**  
Our File No. 0746MH-40404-US2

Dear Robert:

Enclosed herewith, please find a photocopy of an Office Action recently received from the Patent Office for the above identified patent application.

If you have any questions, please don't hesitate to call.

Very truly yours,

Kenneth C. Hill

KCH/er  
Enclosure

Case Tracking System  
Case History Report

Date: October 2, 2006

U.S. Patent Case

Case Number: 40404A

Status: Pending

Client: WIRELESS AGENTS, LLC

Application Serial Number: 09/944,482

Filing Date: 8/31/2001

Application Type: Utility

Title: LOCATION-AWARE WIRELESS COMMUNICATION APPLIANCE AND NETWORK (THIRD PROVISIONAL)

Sr. Attorney Id: MAH

Primary Attorney Id: (none)

Administrator Id: (none)

Item	Due	Completed
Application Filing		8/31/2001
Filing Postcard	10/31/2001	Received
Filing Receipt	11/30/2001	10/12/2001
Assignment Filing	11/30/2001	10/23/2001
Additional Signatures/Filing Fee	12/4/2001	11/15/2001
Assignment Postcard	12/23/2001	Received
Additional Signatures Postcard	1/15/2002	Received
Assignment Recording	1/23/2002	1/9/2002
AWAITING OFFICE ACTION - USA	3/31/2004	9/10/2004
Office Action Mailed - USA	9/3/2004	9/3/2004
Respond to Office Action - USA	12/3/2004	3/3/2005
Office Action Mailed - USA	4/27/2005	4/27/2005
Office Action Postcard - USA	5/3/2005	Received
Respond to Office Action - USA	7/27/2005	9/27/2005
Awaiting Office Action - USA	9/3/2005	5/2/2005
Office Action Postcard - USA	11/27/2005	Received
Office Action Mailed - USA	12/13/2005	12/13/2005
Respond to Office Action - USA	3/13/2006	6/13/2006
Awaiting Action from the PTO - USA	3/30/2006	12/19/2005
Office Action Postcard - USA	8/13/2006	Received
Office Action Mailed - USA	9/21/2006	9/21/2006
Awaiting Action from PTO - USA	12/13/2006	9/28/2006
Respond to Office Action - USA	12/21/2006	
Last Date To File Office Action Response - USA	3/21/2007	

*MAH*  
10-7-6

## MEMORANDUM

To: Brock, Robert, Ken  
Re: Next Steps  
Date: 11 June 2009

After our discussion yesterday, these appear to be the next action items, in order of priority:

\*note: the licensed patents / applications will need large entity fees; the non-licensed applications / patents can pay small entity fees. Also, anything in which the mailing address is not clear will have a change to current address. (no fee for this)

- 1) '195 patent (my 40404) – missed maintenance fee: so long as this is paid within 24 months we are good. **Cost:** \$490 for the fee (my notes show that this one is still small entity), plus a surcharge of \$1,640 (ouch) for a total of \$2,130. This is a simple formality, and we can do it very soon.
- 2) Bat-Wing Application (my 40213C2) – They did not receive the issue fee. I will prepare and file a request to withdraw holding of abandonment, and send copies of the documents I sent before to pay the issue fee. **Cost:** just the issue fee itself, at the old prices I believe. (large entity, as this is a physical configuration - \$1,510.
- 3) Little Scheduler (my 40404A): abandoned. There are a couple of allowable claims; I will take what is allowable and get as many claims as I can out of those already in the application. As soon as we receive notice that the application is revived, we should probably file a divisional in order to pursue the broader claims. **Cost:** petition fee: \$810 (I show this as still small entity)
- 4) Physical Configuration, with litigation claims [enhanced pivot claims] (my 40213C3) – abandoned. We will need to prepare a petition to revive and the response to the last office action. This was a final rejection, so we will need to file this along with an RCE (Request for Continued Examination) also. First step is for the experts to review that latest office action and see if you think we have some arguments to make, then I'll sit down with you and we'll decide whether any claim changes are needed. **Cost:** petition plus RCE fee is \$1620 (large entity) plus \$810 = \$2430.
- 5) Analog Responder (my 40404D1 and 40404US2) – abandoned. There are two applications here. They are both related to the analog responder, but one focuses on the input device, the other on the supporting software. (based on my understanding of our discussion) Both of these are under final, so they need a substantive response to the last office action, and an RCE (same as (4)) for each one. If we decide to do one, the **Cost** will be the same as (4); \$2430. Twice that for both. This is another place where a substantive decision will need to be made by experts.

6) '182 patent (my 40213C) – Maintenance Fee Due 9-21-2009. This can be paid up to 3-21-2010 with a late fee of \$130. This is simply a matter of deciding whether this patent may have any potential value at all. Cost: 980 (3.5 yr fee, large entity)

7) Lost Slider Claims: Robert had these on his computer, and the timing was during the height of litigation. It appears that we never filed them, but there may be some good claims here. Filing this would involve filing a divisional application from either 40213C2 or 40213C3 after they are revived.

8) Potential future filings: Because the original application were filed in 2001, the potential patent term for any additional inventions is nearly halfway used up. If we want to pursue any of them, we should consider filing follow on applications as soon as we receive the first grant of a petition to revive on any of the 40404 patents. Probably, we should pick 2 or 3 and go with them, but the number we pursue is probably going to be determined by cost issues.

The only costs that will be needed are out of pocket costs. Due to cash flow considerations, I will probably need to get checks for the revival fees at the time they are filed. We can make these out to me, or to the USPTO directly, which might be the way to go.

I will start on 1 – 3 right away, and we should have all of them filed in the next week, unless Jennifer's knee surgery develops complications. The others will take longer, as substantive reviews will be needed.

Let me know if this looks correct and complete, and I will get started on the first three items.

Ken



not available in ~~the~~ public pan,

\* ltr sent to Robert - no resp apparently  
filed.

Some claims allowed

file PTR to accept  
allowed claims

(roll into cl. 6)

From: Robert Kay <roverone@mac.com>  
Subject: Fwd: Memo re Wireless Agents  
Date: June 16, 2009 3:48:56 PM CDT  
To: Michael Tedder <ctedder@redgap.com>

Begin forwarded message:

From: Kenneth Hill <khill@hillpatentlaw.com>  
Date: June 16, 2009 3:33:08 PM CDT  
To: "Robert Kay" <roverone@mac.com>  
Subject: RE: Memo re Wireless Agents  
Reply-To: khill@hillpatentlaw.com

Robert:

I stopped by for a while today, but will be going back to the hospital soon.  
So you can mail these, or whatever.

The first three are: (All can be made out simply to USPTO)

\$2130: 6,834,195 (09/826,448) (my 40404)  
\$1510: 11/349,372 (my 40213C2)  
\$810: 09/944,482 (my 40404A)

For the first one, you can put either number on the check; use the serial numbers for the others (and / or my file numbers if the re is room)

I will try to get all this done this week, but it may slide to next week if I don't get back in until Friday.

Ken

Kenneth Hill  
Hill Law Firm  
Intellectual Property Attorneys  
6100 Southwest Blvd.  
Suite 303  
Fort Worth, Texas 76109  
voice: (817) 332-2113  
fax: (817) 332-2114  
cell: (817) 721-9002  
[khill@hillpatentlaw.com](mailto:khill@hillpatentlaw.com)

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-----Original Message-----

From: Robert Kay [<mailto:roverone@mac.com>]  
Sent: Tuesday, June 16, 2009 9:26 AM  
To: khill@hillpatentlaw.com  
Cc: Carl Brock Brandenburg; Ken Maxwell  
Subject: Re: Memo re Wireless Agents

On Jun 12, 2009, at 3:46 PM, Kenneth Hill wrote:

|| Checks can go to "USPTO" if you want to make them out directly.

2 Robert DELIVERED FILE (BK?)

DIRECTOR OF THE UNITED STATES

PATENT AND TRADEMARK OFFICE

D. O. BOX 1450

ALEXANDRIA, VA

22713-1950

POSTED

PAID  
5035

POSTED

PAID  
5036

POSTED

PAID  
5037

I'm sorry for the delay Ken. I had a long weekend taking care of my mother and yesterday was too busy at the office.

Today would be the best day for me to have all of the checks prepared.

Could you make a list or table so we get them right? Something with the Payee (which from above would be "USPTO"), the exact amount, and exactly what the notation on each check should say?

I can have those prepared today, and deliver them to you some how (worst-case, mail or fed ex).

I hope the knee surgery went without any complications, and the recovery process goes smoothly and quickly.

robert

WIRELESS AGENTS, LLC

USPTO

Date 6/1/2009  
Type Bill  
Reference my 40404A

5037

6/15/2009  
Balance Due 810.00  
Original Amt. 810.00  
Discount  
Check Amount

Payment  
810.00  
810.00

Fort Worth National 09/944,482

810.00